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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 004612

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SUBJECT: Canada-China BIT Talks Slowed by U.S.-China Negotiations

Classified By: Economic Minister-Counselor Robert Luke for Reasons
1.4 (b) and (d).

11. (C) Summary: Twice this week, separate Canadian Embassy officials approached Embassy to express Canada's concern that China is holding off on making concessions in long-running bilateral investment treaty (BIT) negotiations with Canada on topics that China expects to surface in the U.S.-China BIT talks. One official said Canada would like to share ideas with the United States more often on our mutual investment treaty discussions with China. End Summary.

Canadian Negotiations Down to Arbitration and Negative Lists

12. (C) Canadian Embassy in Beijing Trade Commissioner Service official Colleen Calvert approached Post's Economic Officer who supports U.S.-China BIT negotiations about Canada's ongoing BIT negotiation with China. She said that after years of negotiations, Canada and China are now down to just two main issues -- consolidation of arbitration claims and a negative list of sectors excepted from BIT obligations. Calvert noted that Canada does not seek to cover the pre-establishment phase of investment. Canada's negative list covers only post-establishment protections. She said Canada is obliged by its law to take a few targeted exceptions, including, for example, protection of industries tied to its indigenous population.

13. (C) While Canada is required to take these limited, specific exceptions, China is resisting specifying any exceptions, she said. Instead, China wants to grandfather all non-conforming measures without specifying what they are, a view it has foreshadowed in the U.S.-China negotiations as well.

Pace of Canada-China BIT Talks Slows Down

14. (C) Calvert also asked about the pace of the U.S.-China negotiations. She was especially curious about U.S. impressions of Director General (DG) Li Ling, suggesting that Canada feels its negotiations have slowed down since Li replaced China's former lead

BIT negotiator, Guo Jingyi, who was detained (and subsequently arrested) for alleged corruption in the foreign investment approval process. Econoff acknowledged that Guo's replacement initially had slowed the pace of negotiations.

15. (C) Calvert said Canada feels that it is close to a deal with China and that the two sides should move quickly to wrap up. However, China's Ministry of Commerce (MOFCOM) has relayed to Canada that because China expects these same issues to come up in the U.S.-China BIT negotiations, China wants to defer negotiating the issues with Canada until they are resolved with the United States.

Canada Seeks Coordination with United States on China BIT Talks

16. (C) In a separate conversation, another Canadian Embassy official said that Chinese BIT negotiators' pre-occupation with the U.S.-China talks has slowed progress in Canada's BIT negotiations with China just as they were reaching a key stage. He said that Canada values its conversations with U.S. BIT negotiators in the North American Free Trade Agreement (NAFTA) Investment Experts Group, and would like to meet more frequently with U.S. BIT negotiators to share experiences on China.

Canada's Experience Suggests China is Focused on United States

17. (C) Comment: When Econoff mentioned to Calvert the large number of Chinese agencies participating in the U.S.-China negotiations as one possible explanation of the deliberate pace of the talks, Calvert replied that Canada's negotiations had not attracted such a large

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cast. This supports our view that China is taking its negotiations with us seriously, as well as Canada's sense that China is more focused on negotiations with the United States than on Canada.

RANDT